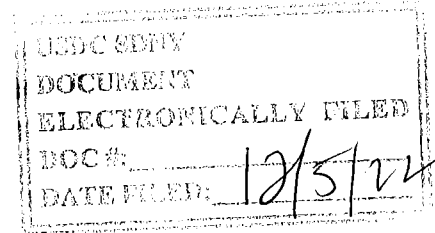


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAWRENCE SAVOCA,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.
-----X

ORDER

16 CV 4465 (VB)
03 CR 841-01 (VB)

In a summary order dated November 29, 2022, the Second Circuit vacated the portion of its December 29, 2021, opinion that addressed petitioner's conviction under 18 U.S.C. § 924(c), and remanded the case to this Court "to determine whether the sentencing court sentenced Lawrence Savoca under § 924(c)(3)(A) [the "elements clause"] or § 924(c)(3)(B) (the "residual clause")." As the parties are of course aware, sentencing in this case took place before a different judge nearly eighteen years ago, which makes the Court's task a challenging one.

Accordingly, counsel are directed to meet and confer, and by **December 19, 2022**, submit a joint letter setting forth how they propose this process should proceed, including what parts of the record should be reviewed and on what timeline. The Circuit stated that "the parties appear to agree that the record from the sentencing court" does not answer the question of whether Savoca's conviction was based on the elements clause or the residual clause, and suggested that on remand this Court review "a wide range of materials" relating to sentencing. In addition to the items mentioned by the Circuit, this Court believes it would be necessary and appropriate to review other portions of the record, such as the parties' opening statements and closing arguments, the trial court's final instructions to the jury, and the verdict sheet.

In its summary order, the Circuit also said that if the record is unclear as to which clause was the basis for the conviction, this Court "may consider background legal conditions at the time of sentencing." The parties' joint letter should address this matter as well.

The Court will decide how best to proceed after reviewing the parties' joint letter.

Dated: December 5, 2022
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge